

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

KIMBERLY DAWN HOWARD,

Plaintiff,

v.

**CIVIL ACTION NO. 2:06 CV45
(Maxwell)**

**COMMISSIONER OF
SOCIAL SECURITY,**

Defendant.

ORDER

On October 5, 2006, the Court referred this Social Security action to United States Magistrate Judge James E. Seibert, pursuant to 28 U.S.C. § 636(b)(1)(B), Rule 72(b) of the Federal Rules of Civil Procedure and Local Rule 7.02(c), with directions to consider the same and to submit to the Court proposed findings of fact and a recommendation for disposition. On March 27, 2007, Magistrate Judge Seibert filed his Report and Recommendation wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation.

While the Court did not receive any actual objections written by the pro se Plaintiff, the Court did receive a letter, written by Roberta Hatcher, friend of the Plaintiff, on behalf of the Plaintiff on April 5, 2007. The Court also received a letter from Allyson Andrews, Physician's Assistant at Tri-County Health Clinic, on March 20, 2007, which letter discusses the Plaintiff's diabetic condition. The Court has reviewed the letters carefully and considered the same.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised in the cross motions for summary judgment were thoroughly considered by Magistrate Judge Seibert in his Report and Recommendation. The Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the proposed Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Moreover, the letters received on the Defendant's behalf have not raised any issues that were not thoroughly considered by the Magistrate Judge in his Report and Recommendation. As more fully stated in the Magistrate Judge's Report and Recommendation, the Court finds that substantial evidence supports the decision below. Therefore, it is

ORDERED that Magistrate Judge Seibert's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly,

1. The Defendant's Motion for Summary Judgment is **GRANTED**;
2. The Plaintiff's Motion for Summary Judgment is **DENIED**;
3. The decision for the Defendant is **AFFIRMED**; and
4. This civil action is **DISMISSED** and **RETIRED** from the docket of this Court.

The Clerk of Court is directed to enter a separate judgment order and to send a copy of this Order to counsel of record and to the pro se Plaintiff.

ENTER: August 28th, 2007

/s/ Robert E. Maxwell
United States District Judge